

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE  
WASHINGTON, DC 20511

JAN 18 2018

Mr. Ben Berwick  
The Protect Democracy Project  
2020 Pennsylvania Ave, NW #163  
Washington, DC 20006

Reference: *The Protect Democracy Project v. ODNI*, 1:17-cv-01000-CKK; ODNI Case DF-2017-00283

Dear Mr. Berwick:

This is an interim response to your letter dated May 22, 2017 (Enclosure 1) received in the Information Management Division (IMD) of the Office of the Director of National Intelligence (ODNI) on May 23, 2017.

Your request, as narrowed by the parties' Joint Status Report dated October 25, 2017, is being processed under the FOIA (5 U.S.C. § 552). In accordance with the Court's Order dated December 4, 2017, ODNI has processed an additional 452 potentially responsive documents. Our current review revealed two responsive records.

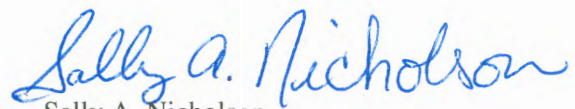
Enclosed you will find the two responsive records which total five pages (Enclosure 2). They are being released with redactions. The ODNI identified material requiring withholding pursuant to the following FOIA exemptions:

- (b)(3), which applies to information exempt from disclosure by statute. Specifically, the National Security Act of 1947, as amended, 50 U.S.C. § 3024 (i)(1), which protects intelligence sources and methods, prohibits against disclosure of the redacted information; and
- b)(5), which protects privileged interagency or Intra-Agency information, and
- (b)(6), which applies to information that, if disclosed, would invade another individual's personal privacy.

We will continue to process the remaining documents pursuant to your FOIA request.

If you have any questions, your attorney may contact Anjali Motgi of the Department of Justice at (202) 305-0879.

Sincerely,



Sally A. Nicholson

Chief FOIA

Information Management Division

Enclosures

ENCLOSURE 1

DF 2017-2028

MAY 23 2017



May 22, 2017

Jennifer L. Hudson  
Director, Information Management Division  
Office of the Director of National Intelligence  
Washington, D.C. 20511  
dni-fora@dni.gov  
Fax: (703) 275-1299

Re: Freedom of Information Act request for communications regarding Russian interference with 2016 election

To Whom It May Concern:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, The Protect Democracy Project hereby requests that your office produce within 20 business days the following records (see below for clarity on the types of records sought):

- 1) All records, including but not limited to emails, notes, and memoranda, reflecting, discussing, or otherwise relating to communications between the Office of the Director of National Intelligence and the Executive Office of the President regarding contacts between individuals connected with the Russian government and individuals connected with the Trump campaign or the Trump administration and or Russian involvement with, or attempts to influence or interfere with, the national election of November 2016.
- 2) All records, including but not limited to emails, notes, and memoranda, reflecting discussing, or otherwise relating to talking points or other communications with the public or the media regarding contacts between individuals connected with the Russian government and individuals connected with the Trump campaign or the Trump administration, and or Russian involvement with, or attempts to influence or interfere with, the national election of November 2016.
- 3) All records, including but not limited to emails, notes, and memoranda, reflecting, discussing, or otherwise relating to communications between the Office of the Director of National Intelligence and the House Permanent Select Committee on Intelligence (HPSCI) and or the Senate Select Committee on Intelligence (SSCI), and or Representative Devin Nunes, Representative Adam Schiff, Senator Richard Burr, Senator Mark Warner, and or any other members or staff of HPSCI

2020 Pennsylvania Avenue, NW, #163, Washington, DC 20006  
[ben.berwick@protectdemocracy.org](mailto:ben.berwick@protectdemocracy.org)

or SSCI, regarding contacts between individuals connected with the Russian government and individuals connected with the Trump campaign or the Trump administration, and/or Russian involvement with, or attempts to influence or interfere with, the national election of November 2016.

- 4) All calendars, agendas, manifests, schedules, notes, lists of attendees, or other records reflecting or relating to meetings regarding contacts between individuals connected with the Russian government and individuals connected with the Trump campaign or the Trump administration, and/or Russian involvement with, or attempts to influence or interfere with, the national election of November 2016.
- 5) In addition to the records requested above, we also request records describing the processing of this request, including records sufficient to identify search terms used and locations and custodians searched, and any tracking sheets used to track the processing of this request. If your agency uses FOIA questionnaires or certifications completed by individual custodians or components to determine whether they possess responsive materials or to describe how they conducted searches, we also request any such records prepared in connection with the processing of this request.

The timeframe for this request is July 1, 2016 through the date that searches are conducted for records responsive to this FOIA request.

#### FEE WAIVER

FOIA provides that any fees associated with a request are waived if “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). The core mission of The Protect Democracy Project, a new organization awaiting 501(c)(3) status, is to inform public understanding on operations and activities of the government. This request is submitted in consort with the organization’s mission to gather and disseminate information that is likely to contribute significantly to the public understanding of executive branch operations and activities. The Protect Democracy Project has no commercial interests.

In addition to satisfying the requirements for a waiver of fees associated with the search and processing of records, The Protect Democracy Project is entitled to a waiver of all fees except “reasonable standard charges for document duplication.” 5 U.S.C. § 552(a)(4)(A)(ii)(II). Federal law mandates that fees be limited to document duplication costs for any requester that qualifies as a representative of the news media. *Id.* The Protect Democracy Project operates in the tradition of 501(c)(3) good government organizations that qualify under FOIA as “news media organizations.” Like those organizations, the purpose of The Protect Democracy Project is to “gather information of potential interest to a segment of the public, use its editorial skills to turn the raw

materials into distinct work, and distribute that work to an audience.” *Nat’s Sec. Archive v. Dep’t of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). We intend to give the public access to documents transmitted via FOIA on our website, [www.unitedtoprotectdemocracy.org](http://www.unitedtoprotectdemocracy.org), and to provide information about and analysis of those documents as appropriate.

### RESPONSIVE RECORDS

We ask that all types of records and all record systems be searched to discover records responsive to our request. We seek records in all media and formats. This includes, but is not limited to: agendas, manifests, calendars, schedules, notes, and any prepared documentation for meetings, calls, teleconferences, or other discussions responsive to our request; voicemails; e-mails; e-mail attachments; talking points; faxes; training documents and guides; tables of contents and contents of binders; documents pertaining to instruction and coordination of couriers; and any other materials. However, you need not produce press clippings and news articles that are unaccompanied by any commentary (e.g., an email forwarding a news article with no additional commentary in the email thread).

We ask that you search for records from all components of ODN! that may be reasonably likely to produce responsive results. We also ask that you search all systems of record, including electronic and paper, in use at your agency, as well as files or emails in the personal custody of your employees, such as personal email accounts, as required by FOIA and to the extent that they are reasonably likely to contain responsive records. The Protect Democracy Project would prefer records in electronic format, saved as PDF documents, and transmitted via email or CD-rom.

If you make a determination that any responsive record, or any segment within a record, is exempt from disclosure, we ask that you provide an index of those records at the time you transmit all other responsive records. In the index, please include a description of the record and the reason for exclusion with respect to each individual exempt record or exempt portion of a record, as provided by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974). When you deem a portion of a record exempt, we ask that the remainder of the record be provided, as required by 5 U.S.C. § 552(b).

Given the 20-day statutory deadline, we hope to be as helpful as possible in clarifying or answering questions about our request. Please contact me at [FOIA@protectdemocracy.org](mailto:FOIA@protectdemocracy.org) or (202) 599-0466 if you require any additional information. We appreciate your cooperation, and look forward to hearing from you very soon.

Sincerely,

A handwritten signature in red ink that reads "Benjamin J. Berwick". The signature is fluid and cursive, with the first name "Benjamin" and last name "Berwick" clearly legible.

Ben Berwick

Counsel

The Protect Democracy Project

2020 Pennsylvania Avenue, NW, #163 Washington, DC 20006  
[ben.berwick@protectdemocracy.org](mailto:ben.berwick@protectdemocracy.org)

DF 2017-00283

**From:** toia@protectdemocracy.org  
**Sent:** Monday, May 22, 2017 11:54 PM  
**To:** DNI FOIA  
**Subject:** Freedom of Information Act Request  
**Attachments:** FOIA - ODNI .pdf

MAY 23 2017

Hi, Whomever It May Concern

Please see the attached Freedom of Information Act request

Sincerely,

Caroline McKay

The Protect Democracy Project



ENCLOSURE 2



From: Brian P. Hale <brian.hale@dni.gov>  
Sent: Tuesday, August 30, 2016 5:47 PM  
To: 'Stroh, Mark E. EOP/NSC'; DNI-Media  
Subject:[AIN] RE: Russian Hack Investigation

\*\*\*\*\* This message has been archived. Double-Click the message to view the contents. \*\*\*\*\*

CLASSIFICATION: UNCLASSIFIED

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(b)(3)



(b)(3)



Mark:

Here is a statement (below) we have used in the past to describe the FDDC. Since much of their work is classified, we have not addressed the content of their assessments.

As an important component of the National Intelligence Council (NIC), the FDDC advises the Director of National Intelligence on foreign denial and deception (D&D) activities. It actively leads research, collection, production and training initiatives to counter foreign D&D efforts and stem the flow of information on intelligence community sources and methods to foreign entities. The FDDC also acts as the interagency hub for the collaboration and integration of the counter-foreign denial and deception mission across the intelligence community.

-----Original Message-----

From: Stroh, Mark E. EOP/NSC [mailto:Mark\_E\_Stroh@nsc.eop.gov]

Sent: Tuesday, August 30, 2016 5:28 PM

To: Brian P. Hale <brian.hale@dni.gov>; DNI-Media <DNI-Media@dni.gov>

Subject: RE: Russian Hack Investigation

Thanks. FWIW, would also note that the reporter, Ken Dilanian, mentioned that this was likely to migrate from the web to nightly news tonight.

From: Stroh, Mark E. EOP/NSC [mailto:Mark\_E\_Stroh@nsc.eop.gov

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Sent: Friday, September 09, 2016 3:50 PM

To: (b) (6)

> DNI-Media > (b) (6)

Cc: Price, Ned C. EOP/NSC > Boogaard, Peter C. EOP/WHO <

peter\_c.\_boogaard@who.eop.gov >

Subject: Flagging: NYT on Russia/DNC

Colleagues,

I'm guessing many of you know this and may have been pinged by Sanger or his colleagues, but wanted to make sure you all were tracking that the New York Times (Davis, Sanger) is reporting a story on election security, Russia's alleged role in the DNC intrusions, and broader attempts to influence U.S. elections, which is likely to appear this weekend, perhaps Sunday.

Per Sanger, much of the story is an examination of what can be done, and can't, to secure the state-by-state systems, and what role the Federal government can, should, and is playing in their cybersecurity. Per Sanger, the "good news" is that there is such variance in those systems, and so many have a paper trail, while the "bad news" is that you only have to pierce a few to call the whole system into doubt.

Sanger said that he had spoken with DHS and that he has noted public comments by IC and law enforcement leaders, particularly at the recent INSA conference, about roles and also the broader issues and the state of play. We are not engaging from here, and have steered Sanger back to DHS.

Folks may have also just seen Evan Perez's report on CNN, which appears to have been taken almost entirely from readouts he got from Hill staffers after briefings that they have received this week. This piece was pretty bad. Among

other things, Perez reported that there was dispute between LE and the IC over whether to publicly attribute the DNC intrusion and that the WH was pushing to not provide public attribution because of the political sensitivities.

(b)(5) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Please let me know if anyone has any issue with that approach at this point.

(b)(5) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Regards,

Mark